REMARKS

Claims 1, 3-11 and 14-22 are pending.

Claims 1, 3-9, 11, 14, and 20-22 are rejected.

Claim 10 has been allowed.

Claims 15-19 have been withdrawn.

Claims 1 and 11 have been amended.

Claims 14 and 21 have been cancelled.

ELECTION/RESTRICTION

As requested, claims 15-19 have been officially cancelled in response to this Office Action.

CLAIMS REJECTIONS – 35 U.S.C. §102

Claims 1, 3, 7, 11, 20, 21, and 22 were rejected under 35 U.S.C. §102(b) as being anticipated by Chauvin (USP 4,576,089). In response, Claims 1 and 11, which are the two independent claims in the application, have been amended to make clear that the claimed invention involves a connector mechanism that pivots the collision profile of the collision surface along a plane essentially parallel to the drive shaft. In contrast, Chauvin teaches and discloses paddle arms capable of pivoting only in a plane that intersects its central drive shaft. Moreover, the pivotal arms in Chauvin lack other elements listed in claims 1 and 11. Specifically, the claimed invention provides that a collision surface is spaced apart from location of the connector mechanism. In Chauvin, the pivotal arms comprise the collision surface, and these arms connect directly to the shank, thereby failing to be spaced apart from the location of the connector mechanism. Lastly, claims 1 and 11 provide that the collision surface is rigidly fixed during rotation of the tool. Chauvin teaches just the opposite, since its arms are intended to "float" See, e.g., Chauvin, column 3, lines 34-40.

In sum, Chauvin neither discloses nor teaches the spaced apart positioning of the collision surface nor the pivotal motion resulting in variations of the collision profile along a plane parallel to the axis of the drive shaft. Chauvin also fails to teach collision surfaces that are fixed during rotation.

Claims 1, 4-8, 11, and 20 were rejected under 35 U.S.C. §102(b) as being anticipated by Flowers (USP 1,366,777). As noted above, the claimed invention provides that the connector mechanism enables pivotal variation of the collision profile along a plane parallel to the axis of the drive shaft. The scraper blade (10) of Flowers, in contrast, pivots perpendicularly to the claimed plane, i.e., it pivots in a plane that intersects the axis of the drive shaft. Applicant also notes that the scraper blade (10) of Flowers is not fixed during rotation as required in claims 1 and 11. Lastly, Applicant notes that the "collision surface" (10) of Flowers is not a collision surface for particles being agitated but is a scraper for scraping against the vessel walls. As such, Flowers is entirely non-analogous art and is irrelevant to the present invention.

Claims 1, 3-9, 11, 14, and 20-22 were rejected under 35 U.S.C. §102(b) as being anticipated by Marrie (USP 3,916,637). In response, Applicant notes that the mechanism in Marrie neither holds the collision surface in a fixed position during rotation nor enables variations in the collision profile of the collision surface. Marrie fails to satisfy the first condition since it explicitly provides a mechanism that, upon encountering sufficient resistance by the blended fluid during rotation, lifts the blade out of the fluid while rotation is continuing. Marrie fails to satisfy the second condition since it teaches that during most of its operation, the blades are to be in a fixed position angled approximately 90 degrees down from the raised position. Unlike the present invention, operators do not have the flexibility to vary the position of the blades.

In sum, Marrie neither teaches nor discloses required elements of the claimed invention.

Claims 1, 3-9, 11, 14, and 20-22 were rejected under 35 U.S.C. §102(b) as being anticipated by Mahler (USP 4,456,382). In response, Applicant notes that Mahler fails to disclose a connector mechanism that enables pivotal variation of the collision profile along a plane parallel to the axis of the drive shaft. Indeed, Mahler is clear that the axis for adjustment of the collision surface is "normal to the axis of rotation." Mahler, therefore, teaches directly away from the claimed invention. Additionally, Mahler fails to teach or disclose collision surfaces that are spaced apart from the connector mechanism as set forth in Claims 1 and 11. Accordingly, Mahler fails to teach or disclose elements of the claims invention and cannot support a rejection pursuant to 35 U.S.C. 102(b)

In sum, none of the references produced to date teach or disclose all of the claimed elements of the invention. As such, rejection pursuant to 35 U.S.C. 102(b) cannot be maintained. Since claims 1 and 11, the two independent claims, are both allowable, each of the claims dependent from these claims are allowable.

ALLOWABLE SUBJECT MATTER

Claim 10 has been allowed over the prior art of record.

The application and claims are believed to be in a condition for allowance in their present form and which allowance is respectfully requested.

In the event the Examiner considers personal contact advantageous to the disposition of this case, the Examiner is hereby authorized to call Applicant's Attorney, Richard Spooner, at Telephone Number (585) 423-5324, Rochester, New York.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE:

IN THE CLAIMS:

1) (Three Times Amended) An improved blending tool for rotation in a blending machine around a central drive shaft having an axis, comprising:

(a) a shank having a location of attachment to the central drive shaft;

(b) a collision surface having a collision profile; and

(c) a connector mechanism pivotally connecting the collision surface to the shank at a location spaced apart from the attachment location, wherein pivoting at the connector mechanism varies the collision profile of the collision surface along a plane essentially parallel to the axis of the shaft and wherein the connector mechanism enables the collision surface to be rigidly fixed in one of a plurality of positions during rotation.

11) (Three Times Amended) A blending machine, comprising:

(a) a vessel for holding the media to be blended;

(b) a rotatable drive shaft having an axis, said rotatable drive shaft positioned inside of the vessel[,] for transmitting rotational motion to the blending tool; and

(c) a blending tool mounted to the drive shaft inside the vessel, said blending tool comprising a shank having a location of attachment to the drive shaft, a collision surface having a collision profile, and a connector mechanism pivotally connecting the collision surface to the shank for connecting the collision surface to the shank at a location spaced apart from the attachment location, wherein pivoting at the connector mechanism varies the collision profile of the collision surface along a plane essentially parallel to the axis of the shaft and wherein the connector mechanism holds the collision surface in a rigidly fixed position during rotation of the tool.

Claims 14 and 21 have been cancelled.

Claims 15-19 have been cancelled.